



**DEPARTMENT OF GENERAL SERVICES**  
**Telecommunications Division**

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October 6, 2004

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
445 12th St NW  
Washington, DC 20554

Subject: ET Docket Number 04-37

Dear Ms. Dortch:

The State of California hereby submits an ex parte filing in the matter of ET Docket Number 04-37.

The State of California is deeply concerned about the potential for the proposed Broadband Over PowerLine (BPL) services to cause harmful interference to its vital public safety communication systems. While the proponents of BPL continue to make assurances that there will not be any unacceptable interference to existing user groups, the evidence continues to mount to the contrary. The State is particularly concerned about the recent filings by Aeronautical Radio Incorporated (ARINC) in which they demonstrated significant interference to their trans-oceanic services (reference ARINC filing on September 16, 2004).

The State of California operates several land mobile radio systems in the 30-50 MHz band that may be impacted by the proposed BPL services. These include a system for the California Highway Patrol (CHP) in the 39-43 MHz spectrum that serves as the primary mode for providing voice communications to state law enforcement officers operating throughout the state. The CHP is the primary agency responsible for responding to accidents and other incidents along the states highways. Another system is one used by the California Department of Forestry and Fire Protection as a command net for senior officers responding to the numerous wildland fires experienced by the state each year. Some of these fires affect many thousands of acres of wildland and hundreds of homes that have been built in the wildland interface area. Additionally, the state operates a fire mutual aid radio system that provides for interoperability between/amongst state and local fire agencies responding to large fires, whether they be wildland fires or other large events. These two systems operate in the 30-40 MHz portion of the band. Another system is one used by the California Department of Transportation (CALTRANS) for the construction and maintenance of the state's roadways. This system operates in the 47 MHz portion of the band.

The State also operates radios in the high-frequency bands (HF) between 2 and 30 MHz in direct support of disaster relief. These systems (commonly known under FCC guidelines as Operation SECURE) are operated by the Governor's Office of Emergency Services and provide vital links to counties, local agencies, and Federal agencies in the event of a major disaster that disrupts normal communications.

Finally, the State has established a very effective link with the amateur radio community to provide additional communications capability in the event of a disaster or other emergency situation. Oftentimes, it is the spectrum between 2-30 MHz that the amateur community is using during these operations.

Unfortunately, due to the extreme frequency congestion in some parts of the state (e.g. Los Angeles, San Bernardino, Riverside, San Diego, Orange County, San Francisco, Oakland, San Jose), there are not alternative frequency bands to which the State could move these operations in the event the claims of the BPL proponents prove false resulting in unacceptable interference. The above named State agencies may be forced to "live with" the interference for an extended period of time even if such interference were to be unacceptably affecting their operations. Such a situation is simply not acceptable and carries with it high degrees of liability.

The questions the State must ask both the proponents of BPL and the Commission are... What is the risk mitigation plan? What if the BPL claims prove to be false and unacceptable levels of interference do result? What if these devices have already been distributed throughout a community (possibly without licensing or other records of where they may be installed), how do we find the interferor? While one device itself may not cause interference, how do you control the cumulative effect of hundreds or thousands of devices in a single area? How can the devices be removed from the marketplace if they do prove to be a source of unacceptable interference? Who funds the removal of the devices? Alternatively, who funds the State for its cost of relocating these vital public safety communications services to other bands (assuming that an alternative band can be found which in and of itself may be problematic)? Equally important, who reimburses the citizens of California for their expense of purchasing and installing these devices (which may go beyond the cost of the device itself) if they have to be removed at a future date due to interference complaints?

The State of California urges the Commission to consider these concerns and to proceed very cautiously in making a ruling on the subject docket.

Sincerely,



GARY R. GROOTVELD, Chief  
Office of Public Safety Radio

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